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10 NORTHERN CALIFORNIA RIVER WATCH

11 UNITED STATES DISTRICT COURT

SC

12 NORTHERN DISTRICT OF CALIFORNIA

13 NORTHERN CALIFORNIA RIVER
14 WATCH, a non-profit corporation,

15 Plaintiff

16 v.

17 CITY OF SAUSALITO, and
18 DOES 1-10, Inclusive,

19 Defendants

20 COMPLAINT FOR INJUNCTIVE RELIEF,
21 CIVIL PENALTIES, RESTITUTION AND
22 REMEDIATION
23 (Environmental -
24 Clean Water Act - 33 U.S.C. §1251 et seq.;
25 Resource Recovery and Conservation Act -
26 42 U.S.C. 6901, et. seq.)

27 NOW COMES PLAINTIFF, NORTHERN CALIFORNIA RIVER WATCH a non-profit
28 corporation, (hereafter, "RIVER WATCH") by and through its attorneys, and for its Complaint against
Defendants CITY OF SAUSALITO and DOES 1-10, Inclusive, (hereafter, "DEFENDANTS"), states
as follows:

29 I. NATURE OF THE CASE

30 1. This is a citizens' suit for relief brought by RIVER WATCH under the Federal Water Pollution
31 Control Act, also known as the Clean Water Act (hereafter, "CWA"), 33 U.S.C. §1251 et seq.,
32 specifically Section 505, 33 U.S.C. §1365, 33 U.S.C. § 1311, and 33 U.S.C. § 1342, to stop
33 DEFENDANTS from repeated and ongoing violations of the CWA. These violations are detailed in the

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION

1 Notice of Violations and Intent to File Suit dated August 16, 2007 (hereafter, "CWA NOTICE") made
2 part of this pleading and attached hereto as EXHIBIT A.

3 2. DEFENDANTS are routinely violating the CWA's prohibition against discharging a pollutant
4 from a point source to Waters of the United States without a National Pollutant Discharge Elimination
5 System("NPDES") permit, CWA §301(a), 33 U.S.C. §1311(a), in the course of their operation of their
6 Sewage Collection System. Point source discharges to waters of the United States are occurring due to
7 numerous sewage pipeline surface overflows to waters of the United States as well as ongoing
8 underground overflows from aging, deteriorated sewer lines to hydrologically connected waters of the
9 United States, including Richardson Bay.

10 DEFENDANTS collect residential and commercial sewage which is pumped to the treatment
11 plant in the City of Sausalito operated by the Sausalito-Marín City Sanitary District, (hereafter
12 "SMCSD"). SMCSD has identified DEFENDANTS' collection system as a significant source of
13 increased wet weather flows into the treatment plant because of the high level of inflow and infiltration
14 ("I/I") of stormwater and groundwater into the DEFENDANTS' sewer system through cracks, eroded
15 sections and misaligned joints. The SMCSD has identified high salinity I/I into DEFENDANTS' sewer
16 system as a major source of saltwater intrusion into the SMCSD treatment plant, which the SMCSD
17 identifies as a significant factor in causing total suspended solids and biological oxygen demand effluent
18 limit violations. High wet weather flows into SMCSD's treatment plant, caused in significant part by
19 I/I into DEFENDANTS' sewer lines, creates the need for SMCSD to direct excess flows to bypass
20 biological treatment units directly to secondary clarifiers, and then to be blended with fully treated
21 effluent. Blending is a compromised treatment process permitted when no feasible alternative is
22 available to prevent loss of life, personal injury, or severe property damage, 40 C.F.R. §122.41(m)(4)(1).
23 Blending has resulted in a number of effluent limit violations when the blended effluent was tested.

24 DEFENDANTS' sewer lines are point sources under the CWA. DEFENDANTS have no NPDES
25 Permit for the discharge of pollutants from a point source to waters of the United States.

26 3. DEFENDANTS are also routinely violating the Basin Plan, Environmental Protection Agency
27 ("EPA") regulations codified in the Code of Federal Regulations, and toxics standards promulgated by
28 the State Water Resources Control Board in the course of DEFENDANTS' operation of the sewage

1 collection system, as described in the CWA NOTICE.

2 4. Under 33 U.S.C. § 1251(e), Congress declared its goals and policies with regard to public
3 participation in the enforcement of the CWA. 33 U.S.C. §1251(e) provides, in pertinent part:

4 *Public participation in the development, revision, and enforcement of any regulation,*
5 *standard, effluent limitation, plan or program established by the Administrator or any State*
6 *under this chapter shall be provided for, encouraged, and assisted by the Administrator*
7 *and the States.*

8 5. DEFENDANTS illegally discharge to waters which are habitat for threatened or endangered
9 species as that term is defined by the California EPA and the United States EPA.

10 6. Plaintiff also brings this citizens' suit against DEFENDANTS under the citizen suit enforcement
11 provisions of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., (hereafter,
12 "RCRA"), specifically Sections 7002(a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) and 7002(a)(1)(B), 42 U.S.C.
13 § 6972(a)(1)(B), to stop DEFENDANTS from repeated and ongoing violations of the RCRA. These
14 violations are detailed in the Notice of Violations and Intent to File Suit dated August 20, 2007
15 (hereafter, "RCRA NOTICE") made part of this pleading and attached hereto as EXHIBIT B.

16 7. DEFENDANTS are routinely violating the RCRA's regulatory mandates applicable to
17 hazardous or solid wastes by causing untreated sewage, a hazardous waste under the RCRA, to be
18 discharged or deposited where it is or probably will be discharged into waters of the State, thereby
19 creating or threatening to create, conditions of pollution or nuisance. (42 U.S.C. § 6972(a)(1)(A)).

20 8. DEFENDANTS are routinely violating the RCRA's prohibition against creating an imminent and
21 substantial endangerment to human health and the environment by the operation of their sewage
22 collection system, as identified in the RCRA NOTICE, which has caused contamination of soil,
23 groundwater and surface water with fecal coliform and other pathogens, (42 U.S.C. § 6972(a)(1)(B)).

24 9. RIVER WATCH seeks declaratory relief, injunctive relief to prohibit future violations, the
25 imposition of civil penalties, and other relief for DEFENDANTS' violations of the CWA § 301, 33
26 U.S.C. § 1311 prohibition against discharging a pollutant to waters of the United States without a
27 NPDES Permit, the RCRA's standards and regulations applicable to hazardous or solid wastes and
28 DEFENDANTS' violation of the RCRA's prohibition against creating an imminent and substantial

1 endangerment to human health and the environment.

2 II. PARTIES

3 10. Plaintiff, NORTHERN CALIFORNIA RIVER WATCH, is a 501(c)(3) non-profit public benefit
4 corporation duly organized under the laws of the State of California, with headquarters and main office
5 located at 6741 Sebastopol Avenue, Suite 140, Sebastopol, California. RIVER WATCH is dedicated
6 to protect, enhance and help restore the surface and subsurface waters of Northern California. Its
7 members live in Northern California including Marin County where DEFENDANTS' sewage collection
8 system facilities and operations are located.

9 11. Members of RIVER WATCH live nearby to waters affected by DEFENDANTS' illegal
10 discharges. Said members have interests in the watersheds identified in this Complaint, which interests
11 are or may be adversely affected by DEFENDANTS' violations. Said members use the effected waters
12 and effected watershed areas for domestic water, recreation, sports, fishing, swimming, hiking,
13 photography, nature walks, religious, spiritual and shamanic practices, and the like. Furthermore, the
14 relief sought will redress the injury in fact, likelihood of future injury and interference with the interests
15 of said members.

16 12. RIVER WATCH is informed and believes and on such information and belief alleges that
17 Defendant CITY OF SAUSALITO. is a City formed under California Government Code § 34000 et.
18 sec., with administrative offices located at 420 Litho Street, Sausalito, Marin County, California.

19 13. DEFENDANTS DOES 1 - 10, Inclusive, respectively, are persons, partnerships, corporations
20 and entities, who are, or were, responsible for, or in some way contributed to, the violations which are
21 the subject of this Complaint or are, or were, responsible for the maintenance, supervision, management,
22 operations, or insurance coverage of DEFENDANTS' sewage collection system facilities and operations.
23 The names, identities, capacities, and functions of DEFENDANTS DOES 1 - 10, Inclusive are presently
24 unknown to RIVER WATCH, who shall seek leave of court to amend this Complaint to insert the true
25 names of said DOES Defendants when the same have been ascertained.

26 III. JURISDICTIONAL ALLEGATIONS

27 14. Subject matter jurisdiction is conferred upon this Court by Section 505(a)(1) of the CWA, 33
28 U.S.C. § 1365(a)(1), which states in part that, "any citizen may commence a civil action on his own

1 behalf against any person . . . who is alleged to be in violation of (A) an effluent standard or limitation
2 . . . or (B) an order issued by the Administrator or a State with respect to such a standard or limitation."
3 For purposes of Section 505, "the term 'citizen' means a person or persons having an interest which is
4 or may be adversely affected."

5 15. Subject matter jurisdiction is further conferred upon this Court by RCRA § 7002(a)(1), 42
6 U.S.C. § 6972(a)(1), which states in part that, "...any person may commence a civil action on his own
7 behalf (A) against any person ... who is alleged to be in violation of any permit, standard, regulation,
8 condition requirement , prohibition or order which has become effective pursuant to this chapter, or (B)
9 against any person ...who has contributed or who is contributing to the past or present handling, storage,
10 treatment, transportation or disposal of any solid or hazardous waste which may present an imminent
11 and substantial endangerment to health or the environment."

12 16. Members and supporters of RIVER WATCH reside in the vicinity of, derive livelihoods from,
13 own property near, and/or recreate on, in or near and/or otherwise use, enjoy and benefit from the
14 waterways and associated natural resources into which DEFENDANTS' discharge pollutants, or by
15 which DEFENDANTS' operations adversely affect their interests, in violation of CWA § 301(a), 33
16 U.S.C. § 1311(a), CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), CWA § 402, 33 U.S.C. § 1342 and RCRA
17 § 7002 (a)(1)(B), 42 U.S.C. § 6972(a)(1)(B). The health, economic, recreational, aesthetic and
18 environmental interests of RIVER WATCH and its members may be, have been, are being, and will
19 continue to be adversely affected by DEFENDANTS' unlawful violations. RIVER WATCH and its
20 members contend there exists an injury in fact to them, causation of that injury by DEFENDANTS'
21 complained of conduct herein, and a likelihood that the requested relief will redress that injury.

22 17. Pursuant to CWA § 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), notice of the CWA violations
23 alleged in this Complaint was given more than sixty (60) days prior to commencement of this lawsuit,
24 to: (a) defendant City of Sausalito (b) the United States EPA, Federal and Regional, and (c) the State of
25 California Water Resources Control Board.

26 18. Pursuant to CWA § 505(c)(3), 33 U.S.C. § 1365(c)(3), a copy of this Complaint has been
27 served on the United States Attorney General and the Administrator of the Federal EPA.

1 19. Pursuant to Section RCRA § 7002 (2)(A), 42 U.S.C. § 6972(2)(A), notice of the RCRA
2 violations alleged in this Complaint was given more than ninety (90) days prior to the commencement
3 of this lawsuit to: (a) defendant City of Sausalito, (b) the United States Environmental Protection
4 Agency, Federal and Regional,(c) the State of California Water Resources Control Board, and (d) the
5 State of California Integrated Waste Management Board.

6 20. Pursuant to CWA § 505(c)(1), 33 U.S.C. § 1365(c)(1), venue lies in this District as the sewage
7 collection system facilities under DEFENDANTS' operation and/or control, and the sites where illegal
8 discharges occurred, which are the source of the violations complained of in this action, are located
9 within this District.

10 21. Pursuant to RCRA § 7002(a)&(b), 42 U.S.C. §§ 6972(a)&(b) venue lies in this District as
11 DEFENDANTS' sewage system collection facilities are located in this District. All of the sites of
12 pollution are located in this District as well.

13 IV. GENERAL ALLEGATIONS

14 22. RIVER WATCH incorporates by reference all the foregoing including EXHIBITS A and B
15 as though the same were separately set forth herein.

16 23. DEFENDANTS own and operate a separate sanitary sewage collection system which collects
17 sewage from approximately 6,200 connections servicing a population of approximately 7,454 in southern
18 Marin County. Sewage collected by DEFENDANTS' collection system is conveyed to the sewage
19 collection system operated by SMCSO and thereafter conveyed to SMCSO's wastewater treatment plant.
20 DEFENDANTS' sewer lines discharge pollutants both directly and indirectly into the waterways
21 referenced below.

22 24. All illegal discharges and activities complained of in this Complaint occur in the waterways
23 named in the CWA NOTICE, all of which are waters of the United States, and at the locations identified
24 in detail in the CWA NOTICE and the RCRA NOTICE.

25 25. The Regional Water Quality Control Board has determined that the watershed areas and
26 affected waterways are beneficially used for drinking water, water contact recreation, non-contact water
27 recreation, fresh water habitat, wildlife habitat, preservation of rare and endangered species, fish
28 migration, fish spawning, industrial service supply, navigation, and sport fishing.

V. STATUTORY AND REGULATORY BACKGROUND

26. CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a “point source” into the navigable waters of the United States, unless such discharge is in compliance with applicable effluent limitations as set by the EPA and the applicable State agency. These limits are to be incorporated into a NPDES permit for that point source specifically. The effluent discharge standards or limitations specified in a NPDES Permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a), such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a) and thus in violation of the CWA. Additional sets of regulations are set forth in the Basin Plan, California Toxics Plan, the Code of Federal Regulations and other regulations promulgated by the EPA and the State Water Resources Control Board.. CWA § 301(a) prohibits discharges of pollutants or activities not authorized by, or in violation of an effluent standard or limitation or an order issued by the EPA or a State with respect to such a standard or limitation including a NPDES permit issued pursuant to CWA § 402, 33 U.S.C. § 1342. The sewage collection system facilities and sewer lines owned and operated by DEFENDANTS are point sources under the CWA.

27. The affected waterways detailed in this Complaint and in the CWA NOTICE are navigable waters of the United States within the meaning of CWA § 502(7), 33 U.S.C. § 1362(7).

28. The Administrator of the EPA has authorized the Regional Water Quality Control Board to issue NPDES permits, subject to specified conditions and requirements, pursuant to CWA § 402, 33 U.S.C. § 1342.

29. DEFENDANTS have no NPDES permit for discharging pollutants from their sewage collection system to waters of the United States. Without a NPDES Permit, all unauthorized point source discharges from DEFENDANTS’ sewage collection system to waters of the United States are illegal. DEFENDANTS’ sewer lines are a point source. Discharges from this point source via surface overflows and tributary ground waters to waters of the United States, without a NPDES permit, are illegal.

30. RCRA § 7002(a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) permits an action against any person who violates a PERMIT, STANDARD or REGULATION pursuant to the RCRA. DEFENDANTS have stored, handled and disposed of materials containing untreated sewage, defined as hazardous wastes under the RCRA, in a manner which has allowed these pollutants to be discharged to soil and

1 groundwater adjacent to DEFENDANTS' sewer collection system and sewer lines, in violation of
2 regulations regarding the use and disposal of hazardous wastes. (RCRA § 3004 (d), 42 U.S.C.
3 §6924(d)).

4 31. RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B) permits an action against any person who
5 has contributed to or who is contributing to the past or present handling of any solid or hazardous waste
6 which may present an imminent and substantial endangerment to health or the environment. The
7 untreated sewage stored and conveyed in DEFENDANTS' sewage collection system consists of solid
8 wastes and hazardous wastes pursuant to RCRA §6903(27), 42 U.S.C. § 6972(27), and RCRA §
9 6903(5), 42 U.S.C. § 6972 (5). Pollutants from untreated sewage in DEFENDANTS' sewer lines have
10 leached into soil and ground water adjacent to DEFENDANTS' sewer lines, creating an imminent and
11 substantial endangerment to health and the environment.

12 VI. DEFENDANTS' VIOLATIONS

13 32. DEFENDANTS' discharges of pollutants from their sewage collection system to waters of the
14 United States without a NPDES Permit, as detailed in the CWA NOTICE incorporated herein by
15 reference as Exhibit A, are violations of CWA §301(a), 33 U.S.C. § 1311(a) The violations are
16 established in Regional Water Quality Control Board Files for DEFENDANTS' sewage collection
17 system facilities, as well as in studies conducted by DEFENDANTS in compliance with orders from
18 regulatory agencies .

19 33. The enumerated violations are detailed in the CWA NOTICE, incorporated herein by reference,
20 and below, designating the section of the CWA violated by the described activity.

21 34. The location of the discharges are the discharges points as described in the CWA NOTICE,
22 incorporated herein by reference.

23 35. DEFENDANTS' discharges to soil and groundwater violate the RCRA's regulations regarding
24 the storage and disposal of hazardous wastes. The violations are established in Regional Water Quality
25 Control Board Files for DEFENDANTS' sewage collection system facilities, as well as in studies
26 conducted by DEFENDANTS in compliance with orders from regulatory agencies

27 36. DEFENDANTS' discharges to soil and ground water violate the RCRA's prohibition against
28 creating an imminent and substantial endangerment to health and the environment. The violations are

1 established in Regional Water Quality Control Board Files for DEFENDANTS' sewage collection
2 system, as well as in studies conducted by DEFENDANTS in compliance with orders from regulatory
3 agencies .

4 37. The enumerated violations are detailed in the RCRA NOTICE incorporated herein by reference,
5 and below, designating the section of the RCRA violated by the described activity.

6 **VII. CLAIMS FOR RELIEF**

7 **A. FIRST CLAIM FOR RELIEF**

8 **Violation of CWA 33 U.S.C. § 1251 et seq., 33 U.S.C. § 1342 (a) and (b), 33 U.S.C. § 1311**

9 **Discharge of Pollutants from Point Sources to United States Waters Without a NPDES Permit**

10 38. RIVER WATCH realleges and incorporates by reference the allegations of Paragraphs 1
11 through 37 including EXHIBIT A as though fully set forth herein.

12 39. DEFENDANTS have and continue to violate the CWA as evidenced by the discharges of
13 pollutants from a point source without a NPDES permit in violation of CWA § 301, 33 U.S.C. § 1311.

14 40. RIVER WATCH contends the violations of DEFENDANTS alleged herein are ongoing and
15 will continue after the filing of this Complaint. RIVER WATCH alleges herein all violations which
16 may have occurred or will occur prior to trial, but for which data may not have been available or
17 submitted or apparent from the face of the reports or data submitted by DEFENDANTS to the Regional
18 Water Quality Control Board or to RIVER WATCH prior to the filing of this Complaint. RIVER
19 WATCH will file additional amended complaints if necessary to address DEFENDANTS' State and
20 Federal violations which may occur after the filing of this Complaint. Each of DEFENDANTS'
21 violations is a separate violation of the CWA.

22 41. RIVER WATCH avers and believes and on such belief alleges that without the imposition of
23 appropriate civil penalties and the issuance of appropriate equitable relief, DEFENDANTS will continue
24 to violate the CWA as well as State and Federal standards with respect to the enumerated discharges and
25 releases. RIVER WATCH avers and believes and on such belief alleges that the relief requested in this
26 Complaint will redress the injury to RIVER WATCH and its members, prevent future injury, and protect
27 the their interests which are or may be adversely affected by DEFENDANTS' violations of the CWA,
28 as well as other State and Federal standards.

1 **B. SECOND CLAIM FOR RELIEF**

2 **Violation of 42 U.S.C. § 6901 et seq., specifically 42 U.S.C. § 6972(a)(1)(A)**

3 42. RIVER WATCH reallege and incorporates by reference the allegations of Paragraphs 1
4 through 41 including EXHIBIT B as though fully set forth herein.

5 43. RCRA § 7002(a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) permits an action against any person who
6 violates a PERMIT, STANDARD or REGULATION pursuant to the RCRA. Civil penalties may be
7 assessed against any person or entity in violation of this section, under the provisions of 42 U.S.C. §§
8 6928 (a) and (g).

9 44. DEFENDANTS' storage and handling of untreated sewage at their sewage collection system
10 facilities, defined as hazardous wastes under the RCRA, has caused the discharge of hazardous wastes
11 to soil and groundwater in violation of regulations regarding the use and disposal of hazardous wastes.
12 (RCRA §3004 (d), 42 U.S.C. §6924(d)).

13 45. RIVER WATCH avers and believes and on such belief alleges that without the imposition of
14 appropriate civil penalties and the issuance of appropriate equitable relief, DEFENDANTS will continue
15 to violate a PERMIT, STANDARD or REGULATION pursuant to the RCRA, specifically RCRA §
16 3004 (d), 42 U.S.C. §6924(d).

17 **C. THIRD CLAIM FOR RELIEF**

18 **Violation of 42 U.S.C. § 6901 et seq., specifically 42 U.S.C. § 6972(a)(1)(B)**

19 46. RIVER WATCH realleges and incorporate by reference the allegations of Paragraphs 1 through
20 55 including EXHIBIT B as though fully set forth herein.

21 47. RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), provides that any person may commence
22 a civil action against any person or governmental entity including a past or present generator, transporter,
23 owner or operator of a treatment, storage or disposal facility who has contributed to the past or present
24 handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may
25 present an imminent and substantial endangerment to health or to the environment.

26 48. DEFENDANTS own and operate a sewage collection system in which they have stored and
27 conveyed and from which they have discharged untreated sewage containing fecal coliform and other
28 pollutants.

1 49. DEFENDANTS have stored untreated sewage in a manner which has allowed it to leach
2 pollutants into soil and ground water adjacent to DEFENDANTS' sewer lines.

3 50. The pollutants listed above, are known to be hazardous to the environment and if released into
4 the environment in sufficient quantity to pose an imminent and substantial risk.

5 51. For purposes of the RCRA, untreated sewage is "solid waste" and "hazardous waste" within the
6 meaning of the statute.

7 52. RIVER WATCH is informed and believes, and thereon alleges that amounts of untreated sewage
8 released by DEFENDANTS from their sewage collection system are in sufficient quantity to pose an
9 imminent and substantial risk to both the environment and human health.

10 **VIII. RELIEF REQUESTED**

11 53. Declare DEFENDANTS to have violated and to be in violation of the CWA;

12 54. Issue an injunction ordering DEFENDANTS to immediately operate their sewage collection
13 system in compliance with the CWA;

14 55. Order DEFENDANTS to pay civil penalties of \$27,500.00 per violation per day for their
15 violations of the CWA;

16 56. Declare DEFENDANTS to have violated and to be in violation of RCRA § 6972(a)(1)(A) for
17 violation of a PERMIT, STANDARD or REGULATION regarding the storage and disposal of
18 hazardous wastes, specifically RCRA § 3004 (d), 42 U.S.C. §6924(d);

19 57. Enjoin DEFENDANTS from storing and disposing of hazardous wastes in their sewage collection
20 system in a manner which violates RCRA §3004 (d), 42 U.S.C. §6924(d);

21 58. Order DEFENDANTS to pay civil penalties of \$25,000.00 per violation per day for their
22 violations of RCRA § 6972(a)(1)(A);

23 59. Declare DEFENDANTS to have violated and to be in violation of the RCRA for discharging
24 toxic pollutants from their sewage collection system which are known human pathogens in sufficient
25 quantity to pose an imminent and substantial risk to health;

26 60. Enjoin DEFENDANTS from discharging toxic pollutants from their sewage collection system
27 which toxins pose an imminent and substantial risk to health and the environment;

1 61. Order DEFENDANTS to pay reasonable attorneys' fees and costs of RIVER WATCH (including
2 expert witness fees), as provided by 33 U.S.C. § 1365(d), 42 U.S.C. § 6972(e) and applicable California
3 law; and,

4 62. For such other and further relief as the court deems just and proper.
5

6
7 DATED: April 14, 2008


8 JERRY BEENHAUT
Attorney for Plaintiff
9 NORTHERN CALIFORNIA RIVER WATCH,
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EXHIBIT A

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

August 16, 2007

Pat Guasco, Sewer Coordinator
Community Development Department
City of Sausalito
420 Litho Street
Sausalito, CA 94965

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Guasco:

The Clean Water Act ("CWA" or the "Act") § 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1).

Northern California River Watch ("River Watch") hereby places the City of Sausalito (hereafter "the City") on notice that following the expiration of sixty (60) days from the date of this NOTICE River Watch intends to bring suit in Federal District Court against the City for its continuing violations of "an effluent standard or limitation", permit condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under §505(a)(1) of the Act, 33 U.S.C. §1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by the incidents of non-compliance listed below.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory exceptions. One such exception authorizes a polluter, who has been

issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions. The City discharges pollutants to waters of the United States without a NPDES permit in direct violation of the Clean Water Act.

BACKGROUND

The City collects residential and commercial sewage which it pumps to the treatment plant in Sausalito. The Sausalito-Marin City Sanitary District, (hereafter "SMCSD"), which owns and operates the treatment plant in Sausalito, has identified the City's collection system as a significant source of increased wet weather flows into the treatment plant because of the high level of inflow and infiltration ("I/I") of stormwater and groundwater into the City's sewer system. In particular, the SMCSD has identified high salinity I/I into the City's sewer system as a major source of saltwater intrusion into the SMCSD treatment plant, which the SMCSD identifies as a significant factor in causing total suspended solids and biological oxygen demand effluent limit violations. (see Excerpt from 2004 Annual Self-Monitoring Program Report, submitted with May 6, 2005 Comments to RWQCB on Treatment Plant Compliance Inspection Report).

The SMCSD has also recognized that much of the satellite system I/I impacting its treatment plant performance comes from residential privately-owned sewer laterals (see February 16, 2007 No Feasible Alternatives Analysis for Blending Peak Wet Weather Flows, p.10). I/I from the City and the two other satellite systems is also identified as causing wet weather flows in excess of the SMCSD's maximum wet weather design flow of 6.0 MGD. Flows in excess of 6.0 MGD are diverted from biological treatment units directly to secondary clarifiers, and then blended with fully treated effluent. Blending is permitted when no feasible alternative is available to prevent loss of life, personal injury, or severe property damage, 40 CFR 122.41(m)(4)(I). Blending is compromised treatment which should not occur with any regularity. From 2002 through 2006 the SMCSD blended an average of 7 times per year.

The structural defects in the City's collection system which allow I/I into the system result in a build-up of pressure which causes sewage system surface overflows. Overflows caused by blockages and I/I result in the discharge of raw sewage into adjacent waters, including San Francisco Bay, which are waters of the United States. Underground leakages caused by pipeline ruptures and other structural defects result in discharges to these adjacent surface waters via underground tributaries, preferential pathways and other conduits. Surface waters become contaminated with fecal coliform, exposing people to human pathogens. The City's chronic collection system failures pose a substantial threat to public health. The City's operation is not regulated under a NPDES Permit. The City is currently regulated under the Statewide General Waste Discharge Requirements For Sanitary Sewer Systems, Order No. 2006-003-DWQ (hereafter "Statewide WDR"), which was adopted on May 2, 2006. The Statewide WDR requires satellite systems to develop a Sewage System Management Plan,

(hereafter "SSMP") within a deadline of 51 months after the adoption of the WDR for satellite systems with populations under 2,500. The SSMP includes a system evaluation and maintenance plan, but the contemplated time lines for implementation of concrete measures are as long as 10 to 15 years into the future. The City's ongoing violations pose an immediate threat to public health and the environment, both from surface water impacts of surface overflows and underground leakage of untreated sewage, and from the impacts of I/I on the SMCSD treatment system.

REMEDIAL MEASURES

River Watch believes the following remedial measures are necessary to bring the City into compliance with the CWA and to prioritize remedial measures to reflect the biological impacts of its ongoing non compliance:

1. A reduction of collection system I/I through an aggressive collection system management, operation and maintenance ("CMOM") program, coordinated with the other satellite systems and the SMCSD collection system conveying wastewater to the SMCSD treatment plant, with clear time lines for prioritized repairs.
2. A mandatory private sewer lateral inspection and repair program, triggered by sale of property or based on geographical, age and/or composition factors, possibly coordinated with repair of public sewer lines.
3. Compliance with monitoring and reporting requirements, especially regarding all overflows which reach storm drains or discharge directly to state waters.
4. Creation of web site capacity to receive private party reports of sewage overflows. Provide notification to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.
5. Development of a source control program to limit the entry of fats, oil, grease and debris, which cause blockages, into the sewage collection system.
6. Performance of human marker testing on surface waters adjacent to sewer lines to test for sewage contamination from underground exfiltration.

NOTICE

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement River Watch has identified the City's collection system discharges of raw sewage to surface waters in violation of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. *The activity alleged to constitute a violation.*

River Watch has set forth narratives describing the discharges of raw sewage to surface waters as the activities leading to violations, and describes below with particularity specific incidents referenced in the City's own records and other public documents in the City's possession or otherwise available to the City, and incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The person or persons responsible for the alleged violations are the entities identified collectively as "the City" and those of its employees responsible for compliance with the applicable law.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in records either created or maintained by or for the City, including the records cited below and the description of specific incidents referenced below.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined Regional Water Quality Control Board records for the period from December 1, 2004 to May 2, 2007. The range of dates covered by this NOTICE is from December 1, 2004 to May 2, 2007. River Watch will from time to time update this NOTICE to include all violations which occur after the range of dates currently covered by this NOTICE. Failure to obtain a NPDES permit, discharging without a NPDES permit, subsurface discharge due to leaking collection system in

areas in contact with waters of the United States are continuous violations and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this NOTICE is Northern California River Watch, 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA 95472. Tel. 707-824-4372.

Northern California River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California.

The violations of the City as set forth in this NOTICE affect the health and enjoyment of River Watch members who reside and recreate in the associated watershed. Said members use this watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the City's violations of the CWA.

VIOLATIONS

From December 1, 2004 to May 2, 2007, the City has violated the CWA, the Basin Plan and the Code of Federal Regulations for discharging pollutants to waters of the United States from its collection system without a NPDES permit. Said violations are reported by City staff to and evidenced by the San Francisco Bay Water Board SSO Reporting Program Database Records. Furthermore these violations are continuing.

<u>Violations</u>	<u>Description</u>
-------------------	--------------------

900	Collection system overflows caused by underground exfiltration. This occurs when untreated sewage is discharged from the collection system prior to the untreated sewage reaching the treatment plant. Underground discharges are alleged to have been continuous throughout the 30 month period from December 1, 2004 to May 2, 2007. Evidence to support the allegations of underground discharge of raw sewage exists in the City's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the treatment plant reported in the SMCSO's DMRs, video inspection of the collection system, and testing of waterways adjacent to sewer lines, including creeks, wetlands and Richardson Bay, for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine.
-----	---

50 Sewage system overflows as evidenced in San Francisco Bay Water Board SSO Reporting Program Database Records (from December 1, 2004 to May 2, 2007), including the overflow of 900 gallons which occurred on June 23, 2006 on the beach at the intersection of Bridgeway and Valley and discharged directly into San Francisco Bay. Also, unrecorded overflows witnessed by local residents.

CONTACT INFORMATION

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:

Jack Silver, Esquire
Law Offices of Jack Silver
Jerry Bernhaut, Esquire
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. 707-528-8175
Fax. 707-528-8675

CONCLUSION

River Watch believes this NOTICE sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter, River Watch intends to file a citizen's suit under § 505(a) of the CWA against the City for the violations identified in this NOTICE.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this NOTICE. However, if the City wishes to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated within the next thirty (30) days so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jerry Bernhaut".

Jerry Bernhaut

cc:

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code 3213A
Washington, D.C. 20460

Wayne Natri, Regional Administrator
US. Environmental Protection Agency Region 9
75 Hawthorne St.
San Francisco, CA 94105

Dorothy R. Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-100

City Attorney and
City Council
City of Sausalito
420 Litho Street
Sausalito, CA 94965

Northern California River Watch
6741 Sebastopol Avenue, Suite 140
Sebastopol, CA 95472

EXHIBIT B

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



VIA REGISTERED MAIL RETURN RECEIPT REQUESTED

August 20, 2007

Pat Guasco, Sewer Coordinator
Community Development Department
City of Sausalito
420 Litho Street
Sausalito, CA 94965

***Re: Notice of Violations and Intent to File Suit under the Resource
Conservation and Recovery Act***

Dear Mr. Guasco:

The Federal Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. § 6901 et seq., requires that sixty days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred. If the violator is a State or local agency, service of notice shall be accomplished by registered mail addressed to, or by personal service upon, the head of such agency. If the alleged violator is an individual or corporation, service of notice shall be accomplished by registered mail addressed to, or by personal service upon, the owner or site manager, with a copy sent to the registered agent of the corporation. 42 U.S.C. § 6972(b)(1)(A).

RCRA also requires that a private party provide ninety (90) days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment. 42 U.S.C. § 6972(b)(2)(A).

On behalf of Northern California River Watch I am providing statutory notification to the City of Sausalito (hereafter "the City"), of the City's continuing and ongoing violations of RCRA in the operation of its sewage collection system.

NOTICE

Under RCRA, Notice regarding an alleged violation of a permit, standard, regulation, condition, requirement, or order which has become effective under RCRA, shall include sufficient information to permit the recipient to identify the specific permit, standard, regulation, condition, requirement, or order which has allegedly been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the date or dates of the violation, and the full name, address, and telephone number of the person giving notice. River Watch therefore provides the following information:

1. *The specific standard, limitation, or order alleged to have been violated.*

RCRA, enacted in 1976, is a Federal law of the United States contained in 42 U.S.C. §§ 6901-6992. RCRA's goals are to protect the public from harm caused by waste disposal; to encourage reuse, reduction, and recycling; and, to clean up spilled or improperly stored wastes.

The Environmental Protection Agency's ("EPA") waste management regulations are codified at 40 C.F.R. §§ 239-282. Regulations regarding management of hazardous waste begin at 40 C.F.R. § 260. California has enacted laws and promulgated regulations that are at least as stringent as the federal regulations.

The City's collection, storage and conveyance of commercial and residential wastewater in the operation of its wastewater collection system, as identified in this NOTICE, has and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding hazardous waste. [42 U.S.C. § 6972(a)(1)(A)].

The City's operation of its wastewater collection system, as identified in this NOTICE, has caused contamination of soil, surface and groundwaters in residential areas which presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972(a)(1)(B)].

2. *The Activity Alleged to Constitute a Violation*

To comply with this requirement River Watch has set forth below narratives describing with particularity the activities leading to violations. In summary RCRA requires that the environment and public be protected from the hazardous wastes, in the form of

human residential waste and commercial waste, such as that discharged by the City. The pollutants, including coliform bacteria and other pathogens, discharged from the City's collection system as identified in this NOTICE, constitute hazardous waste under RCRA, and are required to be properly managed so as not to cause harm and endangerment to the public or the environment. RCRA specifically protects groundwater.

The liability of the City stems from its ownership and operation of its wastewater collection system, which violates RCRA and has contributed to the past or present handling, storage, transportation, or disposal of any hazardous waste which may present an imminent and substantial endangerment to health or the environment. By allowing its sewage collection system to deteriorate and develop structural defects, such as corrosion, ruptures and misaligned joints which allow the infiltration of rainwater and the exfiltration of untreated waste, the City has caused pollutants to be discharged to ground and surface waters.

3. *The discharger responsible for the alleged violation.*

The discharger responsible for the alleged violations are is the City of Sausalito, referred to as the City throughout this NOTICE, and those of its employees responsible for compliance with the applicable law.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the BACKGROUND section and narratives in this NOTICE and in records either created or maintained by or for the City which relate to the City's operation of its sewage collection system, including the records cited below and the description of specific incidents referenced below.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.*

River Watch has examined Regional Water Quality Control Board ("RWQCB") records for the period from December 1, 2004 to May 2, 2007. The range of dates covered by this NOTICE is from December 1, 2004 to May 2, 2007. River Watch will from time to time update this NOTICE to include all violations which occur after the range of dates currently covered by this NOTICE. The violations identified in this NOTICE such as discharging pollutants to groundwater and surface waters, failure to obtain RCRA permits, failure to implement the requirements of RCRA, failure to meet water quality objectives, etc., are continuous. Therefore each day is a violation. River Watch believes all violations set forth in this NOTICE are continuing in nature or will likely continue after the filing of a

lawsuit. Specific dates of violations are evidenced in the City's own records (or lack thereof) or files and records of other regulatory agencies including the RWQCB.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is Northern California River Watch, a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA, 95472. Telephone 707-824-4372.

BACKGROUND

The City collects residential and commercial sewage which it pumps to the treatment plant in Sausalito owned and operated by the Sausalito-Marin City Sanitary District, (hereafter "SMCSD"). SMCSD has identified the City's collection system as a significant source of increased wet weather flows into the treatment plant because of the high level of inflow and infiltration ("I/I") of stormwater and groundwater into the City's system. In particular, the SMCSD has identified high salinity I/I into the City's system as a major source of saltwater intrusion into the SMCSD treatment plant, which the SMCSD identifies as a significant factor in causing total suspended solids and biological oxygen demand effluent limit violations. (see Excerpt from 2004 Annual Self-Monitoring Program Report, submitted with May 6, 2005 Comments to RWQCB on Treatment Plant Compliance Inspection Report).

The structural defects in the City's collection system which allow I/I into the system result in a build-up of pressure which causes sewage system surface overflows. Overflows caused by blockages and I/I result in the discharge of raw sewage into adjacent waters, including San Francisco Bay, which are waters of the U.S.. Sewage system overflows are evidenced in San Francisco Bay Water Board SSO Reporting Program Database Records (from December 1, 2004 to May 2, 2007), including the overflow of 900 gallons which occurred on June 23, 2006 on the beach at the intersection of Bridgeway and Valley and discharged directly into San Francisco Bay. Additionally, there are unrecorded overflows witnessed by local residents.

Underground leakages caused by pipeline ruptures and other structural defects result in discharges to adjacent surface waters via underground tributaries, preferential pathways and other conduits. Surface waters become contaminated with fecal coliform, exposing people to human pathogens. The City's chronic collection system failures pose a substantial threat to public health. The City's ongoing violations pose an immediate threat to public health and the environment, both from surface water impacts of surface overflows and underground leakage of untreated sewage, polluting both surface and groundwater.

CONTINUING VIOLATIONS

RWQCB records indicate that structural defects in the City's collection system are an ongoing source of I/I into the SMCSD treatment plant. These same defects continue to allow exfiltration of untreated sewage into the soil and groundwater. The City is currently regulated under the Statewide General Waste Discharge Requirements For Sanitary Sewer Systems, Order No. 2006-003-DWQ (hereafter "Statewide WDR"), which was adopted on May 2, 2006. The Statewide WDR requires satellite systems to develop a Sewage System Management Plan, (hereafter "SSMP") within a deadline of 51 months after adoption of the WDR, for satellite systems with populations under 2,500. The SSMP includes a system evaluation and maintenance plan, but the contemplated time lines for implementation of concrete measures are as long as 10 to 15 years into the future. The City's ongoing violations pose an immediate threat to public health and the environment. River Watch believes an aggressive collection system management, operation and maintenance ("CMOM") program, with prioritized repairs based on human marker testing of waters adjacent to sewer lines, is necessary to avoid further RCRA violations by the City.

REGULATORY STANDARDS

The RWQCB has adopted Maximum Contaminant Levels ("MCLs") and/or Water Quality Objectives ("WQOs") for constituents in surface and groundwater within the region to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered which evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply.

The RWQCB has also adopted a Water Quality Control Plan or "Basin Plan", which designates all surface and groundwater within the Bay Area regions as capable of supporting domestic water supply.

Sewage has been characterized as "hazardous waste" and "solid waste" within the meaning of RCRA provisions. Accordingly, all regulatory mandates applicable to hazardous or solid waste apply to the use, storage and disposal of sewage.

VIOLATIONS

Between December 1, 2004 and May 2, 2007, ongoing violations of RCRA by the City as described herein have occurred. The City has caused or permitted, causes or permits,

or threatens to cause or permit hazardous waste to be discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of such waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

Past or current violations of RCRA authorize the assessment of civil penalties. The enforcement provisions of 42 U.S.C. §§ 6928(a) and 6928(g) provide for penalties when conditions of hazardous waste disposal have been alleged - as River Watch has alleged in this Notice with respect to the City's sewage collection system. Accordingly, under these provisions, persons or entities violating RCRA are subject to substantial liability to the United States on a per-day basis.

The City's storage and conveyance of sewage wastes in its sewage collection system between December 1, 2004 to May 2, 2007 has allowed significant quantities of hazardous constituents to be released or discharged into soil and groundwater in violation of provisions of the RCRA and California hazardous waste regulatory programs. The violations of RCRA alleged in this NOTICE are knowing and intentional in that the City in the past has stored and conveyed hazardous substances, in the form of untreated sewage, in pipelines which City staff knew to be damaged to the extent that they were unable to contain the sewage and avoid leakage into soil and ground water. City staff have known of the contamination of soil and ground water since at least 2000, and have also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to its sewer pipelines, and to continually contaminate and re-contaminate actual and potential sources of drinking water in addition to surface waters.

The City has collected, treated and stored industrial and domestic waste in a manner which has allowed significant quantities of pollutants to be discharged to soil and groundwater beneath its facilities and beneath adjacent properties where its collection system is located. These pollutants are known to harm both plants and animals. These pollutants are creating an imminent and substantial endangerment to public health and the environment.

Violations of RCRA of the type alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of California. With every discharge, groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

VIOLATIONS OF PERMITS, STANDARDS AND REGULATIONS

42 U.S.C. § 6972(a)(1)(A)

Provisions of RCRA apply to the use and operation of waste disposal facilities including domestic sewage when such facilities are not already covered by a CWA § 402 permit. The City has no RCRA permit for the disposal, storage or use of hazardous or solid waste.

IMMINENT AND SUBSTANTIAL ENDANGERMENT

42 U.S.C. § 6972(a)(1)(B)

The City's discharges have contaminated surface and groundwaters in a manner that adversely affects the beneficial uses of these waters, exceed MCLs and WQOs and in general create imminent and substantial endangerment to the health and safety of the public and to the environment.

In addition to the violations set forth above, this NOTICE is intended to cover all violations of RCRA evidenced by information which become available to River Watch after the date of this NOTICE, and seeks all penalties and other enforcement provisions related to such violations.

The violations of the City as set forth in this NOTICE affect the health and enjoyment of members of River Watch who reside, work and recreate in the affected area and use this watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, property rights, use and enjoyment of this area is specifically impaired by the City's violations of RCRA.

CONTACT INFORMATION

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:

Jack Silver, Esquire
Law Offices of Jack Silver
Jerry Bernhaut, Esquire
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. 707-528-8175
Fax. 707-528-8675

CONCLUSION

River Watch believe this NOTICE sufficiently states the grounds for filing suit under the statutory and regulatory provisions of RCRA. At the close of the notice periods or shortly thereafter, River Watch intends to file suit against the City under the provisions of RCRA for each of the violations alleged herein.

During the 90-day notice period, however, River Watch is willing to discuss effective remedies for the violations referenced. If the City wishes to pursue such discussions in the absence of litigation, please do so immediately so that we might be on track to resolving these before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the 90-day notice period ends.

Very truly yours,



Jerry Bernhaut

cc:

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Dorothy R. Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Mark Leary, Executive Director
Calif. Integrated Waste Mgmt. Board
1001 "I" Street
Sacramento, CA 95814

City Attorney and City Council
City of Sausalito
420 Litho Street
Sausalito, CA 94965

1 Jack Silver, Esq. SBN 160575
2 Jerry Bernhaut, Esq. SBN 206264
3 Law Office of Jack Silver
4 Post Office Box 5469
5 Santa Rosa, CA 95402-5469
6 Tel. (707) 528-8175
7 Fax. (707) 528-8675
8 lhm28843@sbcglobal.net

9 Attorneys for Plaintiff
10 NORTHERN CALIFORNIA RIVER WATCH

11
12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 NORTHERN CALIFORNIA RIVER
16 WATCH, a non-profit corporation,

CASE NO. C08-01966 SC

PROOF OF SERVICE

17 Plaintiff,

18 v.

19 CITY OF SAUSALITO and DOES 1 - 10
20 Inclusive,

21 Defendants.
22
23
24
25
26
27
28

1 PROOF OF SERVICE

2 I am employed in the County of Sonoma, State of California. I am over the age of eighteen years
3 and not a party to the within action. My business address is 100 E Street, Suite 202, Santa Rosa, CA
4 95404. On April 17, 2008, I served the attached described document(s):

5 **Complaint for Injunctive Relief, Civil Penalties, Restitution and Remediation**
6 **[Clean Water Act 33 U.S.C. § 1251 et seq.; Resource Conservation and Recovery**
7 **Act - 42 U.S.C. § 6901 et seq.] -**

8 on the following parties by placing a true copy in a sealed envelope, addressed as follows:

9 Citizen Suit Coordinator
10 U.S. Dept. of Justice
11 Environmental & Natural Resource Division
12 Law and Policy Section
13 P.O. Box 4390
14 Ben Franklin Station
15 Washington, DC 20044-4390

16 Stephen L. Johnson, Administrator
17 U.S. Environmental Protection Agency
18 Ariel Rios Building
19 1200 Pennsylvania Avenue, N.W.
20 Mail Code 3213A
21 Washington, D.C. 20460

22 [X] (BY MAIL) I placed each such envelope, with postage thereon fully prepaid for first-class mail,
23 for collection and mailing at Santa Rosa, California, following ordinary business practices. I am readily
24 familiar with the practices of Law Office of Jack Silver for processing of correspondence; said practice
25 being that in the ordinary course of business, correspondence is deposited with the United States Postal
26 Service the same day as it is placed for processing.

27 [] (BY FACSIMILE) I caused the above referenced document(s) to be transmitted by Facsimile
28 machine (FAX) 707-528-8675 to the number indicated after the address(es) noted above.

[] (BY ELECTRONIC SERVICE) [FRCP Rule 5(b)(2)(a)] I caused a true and correct copy to be
electronically mailed through my electronic mail system to the electronic mail addresses set forth on the
attached Service List per agreement in accordance with FRCP Rule 5(b).

I declare under penalty of perjury, under the laws of the State of California, that the foregoing
is true and correct, and that this declaration was executed on April 17, 2008 at Santa Rosa, California.

27 
28 WOJCIECH P. MAKOWSKI



Law Office of
P.O. Box 5469
Santa Rosa, CA 95402-5469

Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section
P.O. Box 4390

Ben Franklin Station
Washington, DC 20044-4390

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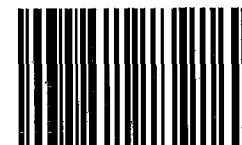
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TO:

WASHINGTON DC 20044



ZIP



(420) 20044

X-RAYED

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DOJ MAILROOM